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SUMMARY

The Independent Telephone and Telecommunications Alliance (“ITTA”) is a group of telephone companies formed, inter alia, to ensure that the unique needs of mid-size telephone companies -- companies with less than two percent of the subscribed access lines nationwide -- are addressed in government policymaking. LCI’s and Comptel’s Petition for Expedited Rulemaking seeking the imposition of national OSS standards makes no mention of the special status afforded to mid-size telcos in the Telecommunications Act of 1996 (the “Act” or “Telecommunications Act”) and the FCC’s Interconnection Order. ITTA submits these comments in opposition to the Petition and to the imposition of any “one-size-fits-all” national standards that ignore the differences between large and mid-size telcos.

As an initial matter, the national OSS standards sought by petitioners are neither necessary nor authorized by the Telecommunications Act. Congress has provided for ILECs and CLECs to arrive at mutually agreeable standards for OSS and other terms of interconnection through negotiations and arbitrations before state commissions. The national standards proposed by petitioners would short circuit this process and interfere with negotiations already underway. In addition, a number of industry self-regulatory bodies are in the process of developing OSS standards and have made substantial progress which would be disrupted by the petitioners’ proposals.

Moreover, petitioners’ proposals conflict directly with previous Commission decisions. The Commission has previously made clear that CLECs are entitled, at most, to non-discriminatory access to the OSS ILECs use themselves. The standards and requirements proposed by the petitioners would go far beyond this entitlement. Thus, no further Commission action is required at this time.

If the Commission nevertheless decides to grant any of the relief the petitioners request, it should avoid imposing monolithic national standards on all ILECs regardless of size and available resources. Rural telcos are presumptively exempt from the requirements of Section 251(c) of the Act, which forms the basis of petitioners' claim for relief, and mid-size telcos may petition their state commissions for exemption from the section. However, the process of seeking exemptions will place a heavy burden on both the mid-size telcos and the state commissions. While the FCC has no authority to grant exemptions under Section 251(f), it should, in the interests of administrative efficiency and rational decision making require that the unique needs of mid-size telcos are appropriately accommodated and that adequate transition periods and cost recovery are ensured.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Petition for Expedited Rulemaking of)	CC Docket No. 96-98
LCI International Telecom. Corp. and)	RM 9101
Competitive Telecommunications Association)	
to Establish Technical Standards for)	
Operations Support Systems)	

To: The Commission

**COMMENTS OF THE INDEPENDENT
TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

The Independent Telephone & Telecommunications Alliance ("ITTA") hereby files its comments in response to the Petition for Expedited Rulemaking filed by LCI International and The Competitive Telecommunications Association on May 30, 1997 ("Petition").¹ ITTA submits that the Commission action urged by petitioners regarding the adoption of uniform national standards and performance requirements for operations support services ("OSS") is both unnecessary in light of ongoing industry efforts and unauthorized by the Telecommunications Act of 1996.² Accordingly, the Commission should dismiss the Petition. Further, if the Commission nonetheless determines to grant any part of the Petition, it should

¹ See Public Notice DA No. 97-1211, rel. June 10, 1997.

² Telecommunications Act of 1996, Pub. L. No. 104-104, 100 Stat. 56, codified at 47 U.S.C. § 151 et seq. ("Telecommunications Act").

at a minimum take into account the special circumstances and interests of the ITTA member companies and avoid imposing a single set of national standards that apply to all ILECs regardless of their size.

INTRODUCTION

More than three years ago, 17 mid-size telephone companies joined together and formed the Independent Telephone and Telecommunications Association (“ITTA”) for the purpose, *inter alia*, of ensuring that the unique needs of the independent telephone industry are addressed in government policymaking. ITTA created a strong voice for these telephone companies, defined in the Telecommunications Act as those companies with less than two percent of the subscribed access lines nationwide (the “mid-size telcos”),³ as Congress shaped the landscape to govern telecommunications for the 21st century. Now that Congress has enacted the Telecommunications Act, ITTA has turned its efforts to the FCC to ensure that Congress’ recognition of the unique role that mid-size telephone companies will play in a competitive market is implemented appropriately by the Commission.

Petitioners’ demand that the Commission impose a single set of national OSS standards on all incumbent local exchange carriers (“ILECs”) typifies the type of “one-size-fits-all” approach implicitly rejected by the Telecommunications Act. Despite the fact that OSS issues are being addressed in ongoing private negotiations and arbitrations before state commissions as Congress intended under Section 252 of the Telecommunications Act, petitioners ask the Commission to short circuit this process and promulgate national OSS performance standards. To that end, the Petition calls for all ILECs, regardless of their size, available resources, or

³ See Section 251(f) of the Telecommunications Act, 47 U.S.C. § 251(f).

the characteristics of the OSS systems and technologies they currently utilize, to conform to national performance standards for each OSS function.

The standards proposed in the Petition in no way reflect the level of OSS service offered by all ILECs, much less the mid-size telcos. ILECs currently utilize a great diversity of OSS systems. The Petition, however, treats the systems used by the RBOCs as the universe of available technology. Moreover, many of the proposed standards are not necessary for interconnection but rather embody Petitioners' desire for certain "wish list" items to support the type of services they would prefer to offer. The Petition also makes no mention of a reasonable transition period or reasonable interim technological solutions.

Most importantly, in apparently treating ILECs as an undifferentiated class, petitioners overlook the fact that the Telecommunications Act presumptively exempts, or authorizes the states to exempt, many of ITTA's members from the relief it requests.⁴ The Petition is purportedly predicated on a need to augment the requirements established in the Local Competition First Report and Order.⁵ There, the Commission concluded that ILECs are required to provide access to OSS functions pursuant to their obligation to offer non-discriminatory access to unbundled network elements ("UNEs") under Section 251(c)(3) of the

⁴ See id. The extent to which petitioners in fact seek relief from other than the largest LECs is not clear. But see Petition at 84 (characterizing a request to extend the mandatory date for providing access to OSS functions filed by 300 LECs as an example of delay).

⁵ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499 (1996) ("First Report and Order"), motion for stay denied, 11 FCC Rcd 11754 (1996), Order on Reconsideration, 11 FCC Rcd 13042 (1996), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996) ("Second Report and Order on Recon."), further recon. pending, appeal pending sub. nom. Iowa Util. Bd. v. FCC and consolidated cases, No. 96-3321 et al., partial stay granted pending review, 109 F.3d 418 (8th Cir. 1996), order lifting stay in part (8th Cir. Nov. 1, 1996), motion to vacate stay denied, 117 S. Ct. 429 (1996).

Telecom Act and to make services available for resale under Section 251(c)(4).⁶

However, many of ITTA's members are rural telephone companies exempted from the requirements of Section 251(c) by Section 251(f)(1),⁷ except when otherwise determined by the relevant state commission. Additionally, all ITTA members, as mid-size telcos, may seek suspension or modification of the requirements of Sections 251(b) and (c) from their state commissions pursuant Section 251(f)(2).⁸ Read in conjunction with the Act's consignment of interconnection disputes to the states generally, it is clear that the imposition of OSS standards, particularly as it applies to ITTA members, is an issue for the state commissions rather than the FCC.

Furthermore, the members of ITTA that have received interconnection requests have taken, and continue to take, all reasonable steps to satisfy applicable requirements regarding OSS. Steps taken by individual ITTA members are described in detail herein.

ITTA submits that, as shown below, the relief sought by petitioners is unwarranted on the merits, conflicts with previous Commission orders and extends far beyond the requirements of the Telecommunications Act. ITTA offers the following comments on the Petition without prejudice to its belief that the relief requested by petitioners would not apply, and could not lawfully be applied to most, if not all, of its members.

⁶ ITTA maintains that OSS services are not UNEs and that it would be inappropriate for the Commission to consider petitioners' arguments under 251(c)(3) until the Eighth Circuit hands down a decision in the appeal of the First Report and Order. Its comments in the instant proceeding are offered without prejudice to that position.

⁷ 47 U.S.C. § 251(f)(1); see also Second Report and Order on Recon. at ¶ 12.

⁸ 47 U.S.C. § 251(f)(2); see also Second Report and Order on Recon. at ¶ 12.

I. THE PETITION IS SIMPLY UNNECESSARY TO SECURE REQUIRED OSS ACCESS FOR CLECS AND WOULD DISRUPT PROGRESS ALREADY MADE BY INDEPENDENT STANDARDIZATION BODIES.

Given the great diversity of OSS standards and technologies employed by ILECs as well as the number of technical issues involved, development and promulgation of OSS standards is a problem poorly suited to a prescriptive regulatory solution. Self-regulatory industry organizations, operating by member consensus and under protocols which allow for the testing and improvement of standards before they are finalized, have already made substantial progress in this area. FCC intervention at this stage risks slowing the process of standards development and, concomitantly, freezing technology at current levels.

The Ordering and Billing Forum ("OBF") of the Alliance for Telecommunications Industry Solution ("ATIS"), which includes both CLEC and ILEC representation, has already made substantial progress in promulgating standards for many of the OSS functions which are the subject of the Petition. The OBF has six standing committees, five of which are actively involved with local competition issues, including OSS standards. In addressing an issue such as the appropriate performance standard for a particular OSS function, each OBF committee operates pursuant to certain protocols that are designed to expedite issue resolution and simultaneously develop member consensus for action. Under this framework, issues are processed first through "initial closure" -- during which a performance standard is set and implemented, but subject to a period of review that permits additional input and alterations prior to a final approval -- and then through "final closure" -- after which no changes are allowed. It is important to understand that that this framework allows for full and unfettered

input from both ATIS's ILEC and CLEC constituents.

Performance standards for a significant number of the OSS functions discussed in the Petition have already advanced through the OBF issue resolution process to the "final closure" stage, including:

- **Ordering:** Standards for ordering basic exchange, ISDN, private line, and frame relay services for resale purposes. Also, standards for ordering access to the following UNEs -- simple loop, complex loop, line and switch ports, loop and line switch ports, and trunk switch ports.
- **Provisioning:** Standards for firm order confirmation.
- **LEC to LEC Billing:** Standards for billing for local usage, interim number portability, local product and service offerings, local features, line-side ports, line-side loops, resale, and interconnection.

Other OSS performance standards have reached the "initial closure" stage of OBF approval and have been implemented on an interim basis pending final approval. FCC intervention now would fracture that consensus and prevent expeditious development of OSS performance standards -- contrary to the ostensible purpose of the Petition. In light of this evidence of substantial progress by the OBF on many of the issues raised by petitioners, and the opportunity for additional issues to be addressed in this ongoing and effective process, the imposition of national standards as proposed in the Petition is manifestly unnecessary and likely to be counterproductive.

It also merits noting that the Telecommunications Act provides that interconnection terms and conditions be established through a process of carrier-to-carrier negotiations and arbitrations before state commissions.⁹ Petitioners ask the FCC to discard this Congressionally

⁹ See 47 U.S.C. § 252.

mandated, private contractual negotiation model in favor of a nationwide governmental prescription. Not only would such interference in the negotiation process undermine the express legislative directive, any standards the Commission adopts may conflict with contractual provisions mutually agreed to by ILECs and CLECs and approved by state commissions. The Commission should be careful to avoid creating such a problematic situation, particularly in light of the pending Eighth Circuit stay and appeal.

II. PETITIONERS REQUEST VASTLY MORE THAN WHAT IS MANDATED BY THE ACT -- EQUIVALENT OSS SERVICE PROVIDED ON A NON-DISCRIMINATORY BASIS.

The provisions of the Telecommunications Act ostensibly relied upon by petitioners do not provide authority for the relief they seek. The Commission has sought to justify its OSS requirement through Sections 251(c)(3) and (c)(4) of the Act, which provide that requesting telecommunications carriers are entitled to non-discriminatory access to both UNEs and resold services (which the FCC has found to include OSS).¹⁰ These sections require only that an ILEC provide any requesting telecommunications carrier with interconnection that is “equal in quality” to that provided by the ILEC itself or a subsidiary on terms that are “nondiscriminatory.”¹¹ Thus, the most the statute could potentially require would be for ILECs to provide CLECs with access to the same OSS systems the ILEC itself utilizes on the same terms and conditions. Because petitioners’ request for relief is premised on the claim that Section 251 requires substantially more, including national standards and substantial OSS service upgrades, and nothing in that section supports this interpretation, the Petition should be

¹⁰ See First Report and Order.

rejected.

A. The Members of ITTA Are Making, and Will Continue to Make, All Reasonable Efforts To Provide CLECs With Equivalent OSS Services on a Non-Discriminatory Basis.

The ITTA members which are not presumptively exempt from the requirements of Section 251(c), have made good faith efforts to make comparable OSS available to requesting CLECs. Additionally, some members have been proactive in preparing for interconnection, even in the absence of a CLEC request. The experiences of Southern New England Telephone (“SNET”), Cincinnati Bell Telephone (“CBT”), ATU and Aliant are illustrative in this regard.

SNET has been an industry leader in opening its system to interconnection, having undertaken efforts which predate the Telecommunications Act. Pursuant to a state law enacted in 1994, SNET began a process of developing OSS compatible with interconnection as early as 1995. Since passage of the Act, SNET has negotiated interconnection agreements with multiple CLECs, all of which have included negotiated access to its OSS. SNET already provides an electronic interface to at least one CLEC for ordering and provisioning functions. Additionally, the Connecticut Department of Public Utility Control is currently considering a proposal initiated by SNET for service standards and financial remedies which encompass OSS functions.¹²

While SNET has made significant progress toward non-discriminatory access to its OSS, its efforts have required considerable time and resources. Pursuing the goal of making SNET’s system compatible with competitive interconnection has already taken two years and

(. . . continued)

¹¹ 47 U.S.C. § 251(c)(2)(C)-(D).

¹² See Connecticut Department of Public Utility Control, Docket No. 97-04-23.

the process is still incomplete. SNET's experience clearly demonstrates the need for realistic schedules for the implementation of any OSS standards the Commission might impose, even for the largest mid-size companies.

CBT is also making all good faith efforts to provide parity of access to OSS functions to interconnecting carriers on a non-discriminatory basis. CBT is actively engaged in setting up an electronic gateway which will utilize an Electronic Data Interchange ("EDI") based standard for the handling of local service requests. It is also in the final phases of interconnection negotiations with interconnecting carriers that will address all OSS functionalities. These efforts will be furthered by the decision of the Public Utilities Commission of Ohio on standards for OSS functionalities, which is expected imminently.

ATU has also had significant experience in preparing its system for interconnection at the request of interconnecting CLECs. Like SNET, ATU has negotiated interconnection agreements which address OSS along with other terms of interconnection. Through the process of negotiation, ATU and the CLECs have agreed to implementation time frames more reasonable than those suggested in the Petition.

Nevertheless, complying with the interconnection agreements will impose substantial costs. ATU's current OSS has been in place for the past dozen years and is now being required to perform functions for which it was not designed. ATU's staff has spent literally thousands of hours in recent months attempting to overcome short term bottlenecks and to explore developing new systems. However, new systems are not easily available, forcing ATU to develop its own hardware and software solutions. ATU has undertaken this process with great vigor, but the solutions it has developed will cost millions to implement. Moreover, conversion from the existing system to new systems will entail a time-consuming

process of transferring records from the old system to the new one.

Finally, Aliant has undertaken efforts to open its OSS in anticipation of a possible bona fide interconnection request. Aliant has organized an internal task force to address OSS related issues and has undertaken a review of the cost of making fully automated OSS available. The results of the review demonstrate that the costs of upgrading Aliant's OSS functionalities vary dramatically depending on the time frame in which such a conversion is required. The aggregate cost of full conversion over a number of years, though still quite substantial, is a mere fraction of the cost of converting Aliant's system in a single year.

The experiences of SNET, CBT, ATU, and Aliant -- which exemplify the experiences of all ITTA members -- clearly demonstrate the mid-size telcos commitment to providing CLECs with non-discriminatory access to their OSS systems. In addition to their internal efforts, mid-size telcos actively participate in the national industry forums established to develop OSS standards. Thus, contrary to the implications of the Petition, the mid-size telcos are making every reasonable effort to open their OSS systems to CLECs. The imposition of national OSS standards cannot realistically be expected to expedite ITTA member efforts, given resource and other constraints, and may, in fact, hamper them.

B. The Requirements of Section 251 Are Far More Narrow Than the Petition Suggests.

- 1. Section 251's requirements of equivalent quality and non-discriminatory terms in no way require prescription of national standards.**

The Commission has previously considered and rejected the contention that either Section 251 or the development of local exchange competition requires national OSS performance standards. In the Second Report and Order on Reconsideration the Commission stated "OSS functions can be provided without national standards," and further concluded that

“[w]e continue to encourage parties to develop national standards for access to OSS functions, but decline to condition the requirement to provide access to OSS functions upon the creation of such standards.”¹³ The Commission expressed concern that delaying the requirement to provide non-discriminatory access to OSS functions until national standards were developed and imposed would “significantly and needlessly delay competitive entry.”¹⁴ Additionally, the Commission noted that industry organizations have already undertaken efforts to establish OSS standards and that it would “ensure continued progress” by monitoring those organizations.¹⁵ Under these conditions, where ILECs are making good-faith efforts to comply with the purported requirements of Section 251, the Commission has made clear that it will not seek enforcement actions or otherwise intervene.¹⁶

Furthermore, the text of Section 251 mentions neither national standards nor the substantial facility upgrades they would require of many ILECs, especially mid-size companies. Petitioners naively treat OSS functions as if they fall within a neatly limited range of possibilities. In reality, there is a tremendous range of variation not only among OSS technologies, but also among individual companies’ existing OSS. Mid-size companies’ OSS in particular are rarely on par with the RBOCs’ OSS, which is the main focus of the Petition. ITTA’s members possess fewer resources and serve largely rural customer bases. Driven by these characteristics, ITTA’s members have made historical investment decisions and technology choices that have resulted in the widely varying OSS they utilize today.

¹³ Second Report and Order on Recon. at ¶ 13.

¹⁴ Id.

¹⁵ Id.

To ask ITTA's members now to conform to uniform standards is not to request non-discriminatory access, but rather to compel members to substantially upgrade or completely replace their existing systems. Notably, petitioners' implicit demand that ITTA members change out their facilities in this manner is unaccompanied by any discussion of how the upgrades will be financed. The Commission needs to assure that those who cause costs to be incurred in fact bear those costs. Given the lack of a statutory basis for the relief requested by petitioners and the Commission's clearly correct previous refusal to require national standards, the Petition should be dismissed.

2. Petitioners demand not merely equivalent services, but substantial and specific OSS service improvements.

Many of the OSS standards suggested by petitioners are not necessary for the provision of local exchange service, but instead amount to non-essential requirements designed to support the type of services, provisioning, marketing, and other business operations in which petitioners, but not necessarily other local competitors, would prefer to engage. However, the Telecommunications Act merely allows CLECs to make use of the OSS facilities an ILEC itself uses. If the CLEC wants more or different OSS functionality, it is free to construct and operate its own OSS along with its own network. ILECs should not be required to act as network construction contractors and business systems developers for CLECs. Nevertheless, the petitioners ask the Commission to require all ILECs to provide a number of specific capabilities. Typical, though not exhaustive, of the items requested are the following:

- **Standardization** -- The Petition cites CLEC complaints that each ILEC employs its own "ordering and provisioning procedures" and its own "order

(. . . continued)

¹⁶ See Second Report and Order on Recon. at ¶ 11.

forms and interfaces”¹⁷ as support for FCC-enforced OSS function standardization. In effect, petitioners suggest that the Telecommunications Act requires ILECs to stop tailoring their OSS facilities to meet their own internal and customer-based needs in order that their competitors’ operations might be facilitated. Grant of this request would give CLECs priority over ILEC customer needs, which is the antithesis of the Act’s non-discriminatory access standard.

- **Local Carrier Service Centers (“LCSCs”)** -- In arguing that ILECs do not provide adequate access to their maintenance and repair systems, the Petition suggests that all ILECs should establish LCSCs -- facilities independent from retail service centers where resellers can avoid queuing up with consumers and instead have their maintenance inquiries answered on a priority basis.¹⁸ This request essentially seeks the creation of an entirely new business operation and service offering, as well as better service than the ILEC provides to itself.
- **Year 2000 Date Formats** -- Despite the fact that ILECs, like any business with massive data processing needs, may not yet know the extent to which the “Year 2000 problem” -- the fact that computers are designed to recognize only two-digit, rather than 4 digit date information -- infects their own OSS facilities or how much it will cost to correct the problem, the Petition demands that ILECs modify “applications and data files ... to support Year 2000 date formats.”¹⁹ Forcing ILECs to remedy the problem according to a schedule imposed to meet the needs of CLECs could vastly increase the difficulty and expense of this already substantial task.

The faulty reasoning behind many of these requests is best embodied by one CLEC’s claim that it needs “LEC to CLEC conversions [that] are as simple as a PIC change for long distance service.” The statement turns the Telecommunications Act’s requirement of equivalent services on its head by presuming that CLECs must be provided with any facility they want rather than access to the facilities ILECs actually employ. Moreover, the statement inaccurately suggests that all technical barriers are easily surmountable if only the Commission

¹⁷ Petition at iii.

¹⁸ Id. at iv.

¹⁹ Id. at 23.

would impose regulations. In fact, LEC to CLEC conversion is a substantially more complex and costly undertaking than a PIC change, a reality that cannot be altered by simple regulatory fiat. If CLECs are entitled to anything, it is to non-discriminatory access to the ILECs' existing OSS facilities, not any particular OSS technology or facility upgrades. Moreover, the Petition skirts the issue of CLECs obligation to pay the full cost of any changes or improvements to OSS facilities required to provide such access.

III. AT A MINIMUM, IF THE COMMISSION WERE TO GRANT ANY OF THE RELIEF SOUGHT IN THE PETITION, IT MUST NOT PROPOSE A "ONE-SIZE-FITS-ALL" APPROACH.

The Commission should be wary of proposing unwarranted and unfunded mandates such as those sought in the Petition. Such requests rarely take into account the special circumstances of the parties to whom such mandates will be applied. Here, the petitioners fail utterly to distinguish between the classes of ILECs with respect to which they seek relief under Section 251(c). The Commission should not repeat that oversight should it propose any rules in response to the Petition.

A. Any OSS Requirements the Commission May Promulgate Should Not Apply to ITTA Members.

As noted above, two provisions of the Telecommunications Act provide ITTA members with exemptions, or the power to seek exemptions, from the requirements of Section 251(c). The Telecommunications Act clearly specifies that ITTA members are to be treated differently than other ILECs. As discussed below, Sections 251(f)(1) and (2), respectively, exempt rural telephone companies and permit mid-size telcos to apply for exemption from the requirements of 251(c). The legislative history of these provisions clarifies that they were intended to protect companies like the members of ITTA from the unreasonable demands of

their larger, better financed competitors.²⁰ Moreover, because of their smaller and more typically rural customer base, the financial and technological options available to ITTA members may be more circumscribed and their planning and implementation horizons substantially more distant than for larger ILECs. The Commission should consider these distinguishing characteristics of ITTA members should it choose to propose any national OSS standards.

1. ITTA's rural telephone company members are presumed to be exempt from Section 251(c).

Rural telephone companies are presumed to be exempt from the requirements of Section 251 absent a determination by the relevant state commission to the contrary.²¹ A review of the Conference Report accompanying the Telecommunications Act reveals that Section 251(f)(1) arose from conflicting provisions in the House and Senate bills. The House bill's antecedent to 251(f)(1) permitted rural telephone companies to apply for exemptions from 251(c) while the Senate provision presumed rurals to be exempt.²² The presumptive approach of the Senate provision was ultimately adopted in conference. The Conference Report on the Senate provision states: "The Senate intends that ... a State ... shall ... use this [exemption] authority to provide a level playing field, particularly when a [rural telephone company] ... faces competition from a telecommunications carrier that is a large global or nationwide entity that has financial or technological resources that are significantly greater than

²⁰ See H.R. Conf. Rep. No. 104-458 (1996) ("Conference Report") at 119.

²¹ 47 U.S.C. § 251(f)(1).

²² See Conference Report at 119-121.

the resources of the [rural telephone] company.”²³

The situation described in the Conference Report is precisely what has arisen here. Large IXC's planning to enter the local exchange market will be the primary beneficiaries of the relief the Petition seeks. Those IXC's hope to enter the local market on a vast scale and have petitioned the Commission for national OSS standards to facilitate that entry. However, as the Conference Report makes clear, IXC entry cannot and should not be financed by rural telephone companies. Accordingly, consistent with Congressional intent, ITTA's rural telephone company members are presumptively exempt from any OSS standards the Commission may promulgate under Section 251(c).

2. All ITTA members may seek exemption from the requirements of Section 251(b) & (c).

Recognizing that mid-size telephone companies may face the same daunting problems as rural telcos in the new regulatory environment, Congress further provided that they may petition their state commissions to suspend or modify any OSS standards the FCC may impose under Section 251(b) & (c).²⁴ The Commission should be particularly mindful of this provision, given ongoing efforts by the state commissions to oversee negotiations and to conduct arbitrations of interconnection agreements under Section 252. Undifferentiated imposition of OSS standards such as those proposed by petitioners on large and small LECs alike would cause smaller LECs, including ITTA's members, to seek protection from undue burdens from their state commissions through petitions for exemption. Such petitions would waste resources -- both of the LECs and the state commissions -- needlessly burdening both

²³ Id. at 119.

²⁴ 47 U.S.C. § 251(f)(2).

affected ILECs and state commissions and, ultimately, slowing progress toward local competition. Thus, although states enjoy exclusive authority to make necessary determinations under Section 251(f), it behooves the Commission, in the interests of efficiency and rational decision making to expressly accommodate the unique circumstances of ITTA members at the same time it proposes any OSS standards.

B. Cost Recovery and Realistic Implementation Schedules Are Particularly Critical for Smaller ILECs.

Should the Commission decide to propose nationwide OSS standards notwithstanding the foregoing, the special needs of ITTA's members should be taken into account. If the Commission promulgates standards, it should implement the provisions of the Act and the Commission's Interconnection Order and require CLECs to pay the actual costs of compliance and any necessary upgrades.²⁵ Although such cost recovery is important for all ILECs to ensure a level competitive playing field, it is even more critical for smaller LECs. Mid-size telcos have fewer customers than larger ILECs, with a correspondingly smaller revenue base, making it impossible for them to absorb any CLEC-imposed costs. Moreover, ITTA members have limited staff and technical resources to change out equipment and establish new operations. As a result, they would require extended implementation deadlines and similar accommodations in order to avoid unreasonable rate increases or disruptions in service.

Additionally, due both to the smaller revenue base and modest scale of many ITTA

²⁵ See 47 U.S.C. § 252(d)(1)(A)-(B) (stating that charges for interconnection and UNEs should be "based on the cost ... of providing the interconnection or network element," and "may include a reasonable profit."); see also First Report and Order at 15603 (stating that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the cost of that interconnection, including a reasonable profit.")

members' operations in comparison to larger ILECs, some members' OSS facilities may be a generation or more behind the technology petitioners propose as an industry standard. To the extent the standards imposed are radically inconsistent with the OSS technology currently employed by members, relief in the form of exemptions or grandfathering will be required. More modest, CLEC financed, OSS upgrades may be possible, but ITTA members still will require a transition period in which to make the required improvements. The length and the conditions of the transition period would, of course, be dependent on the demands of the standards imposed.

IV. CONCLUSION

The national OSS standards sought by petitioners are neither necessary nor authorized by the Telecommunications Act. Consistent with the will of Congress, CLECs and ILECs are currently negotiating interconnection agreements addressing, inter alia, OSS functions under the watchful eye of state commissions and in compliance with the non-discrimination mandate of the Act. Moreover, a number of self-regulatory industry forums have already tackled the problem of OSS standards and made substantial progress. Finally, the Commission has already addressed the issue of national standards and unequivocally rejected them. No further action is required at this time. Accordingly, the Petition should be dismissed.

However, if the Commission nonetheless chooses to grant any of the relief sought by petitioners, it should also recognize that a "one-size-fits-all" approach to OSS capabilities would unduly burden mid-size companies whose limited resources and existing OSS would render compliance especially difficult.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of July, 1997, I caused copies of the foregoing Comments of The Independent Telephone & Telecommunications Alliance to be served on the following:

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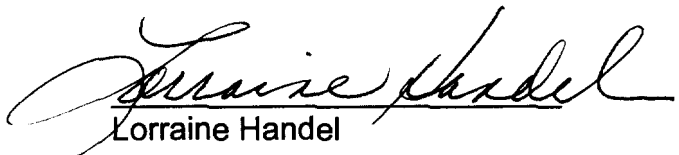
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